

§ 6.5

action is to remedy discriminatory practices or usage.

(iv)(A) Notwithstanding anything to the contrary in this part, nothing contained in this section shall be construed to prohibit any Recipient from maintaining or constructing separate living facilities or restroom facilities for the different sexes in order to protect personal privacy or modesty concerns. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can, in the interest of personal privacy or modesty, only be performed by a member of the same sex as those receiving the services.

(B) Section 109 of the Act does not directly prohibit discrimination on the basis of age or disability, but directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 apply to Title I programs and activities. Accordingly, for programs or activities receiving Federal financial assistance, the regulations in this part 6 apply to discrimination on the bases of race, color, national origin, religion, or sex; the regulations at 24 CFR part 8 apply to discrimination on the basis of disability; and the regulations at 24 CFR part 146 apply to discrimination on the basis of age.

(b) [Reserved]

§ 6.5 Discrimination prohibited—employment.

(a) *General.* A Recipient may not, under any program or activity funded in whole or in part with Federal financial assistance, directly or through contractual agents or other arrangements including contracts and consultants, subject a person to discrimination in the terms and conditions of employment. Terms and conditions of employment include advertising, interviewing, selection, promotion, demotion, transfer, recruitment and advertising, layoff or termination, pay or other compensation, including benefits, and selection for training.

(b) *Determination of compliance status.* The Assistant Secretary will follow the procedures set forth in this part and 29 CFR part 1691 and look to the sub-

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stantive guidelines and policy of the Equal Employment Opportunity Commission when reviewing employment practices under Section 109.

§ 6.6 Records to be maintained.

(a) *General.* Recipients shall maintain records and data as required by 24 CFR 91.105, 91.115, 570.490, and 570.506.

(b) *Employment.* Recipients shall maintain records and data as required by the Equal Employment Opportunity Commission at 29 CFR part 1600.

(c) Recipients shall make available such records and any supporting documentation upon request of the Responsible Official.

(Approved by the Office of Management and Budget under control numbers 2506–0117 and 2506–0077)

Subpart B—Enforcement

§ 6.10 Compliance information.

(a) *Cooperation and assistance.* The Responsible Official and the Award Official will provide assistance and guidance to Recipients to help them comply voluntarily with this part.

(b) *Access to data and other sources of information.* Each Recipient shall permit access by authorized representatives of HUD to its facilities, books, records, accounts, minutes and audio tapes of meetings, personnel, computer disks and tapes, and other sources of information as may be pertinent to a determination of whether the Recipient is complying with this part. Where information required of a Recipient is in the exclusive possession of any other agency, institution, or person, and that agency, institution, or person fails or refuses to furnish this information, the Recipient shall so certify in any requested report and shall set forth what efforts it has made to obtain the information. Failure or refusal to furnish pertinent information (whether maintained by the Recipient or some other agency, institution, or person) without a credible reason for the failure or refusal will be considered to be non-compliance under this part.

(c) *Compliance data.* Each Recipient shall keep records and submit to the Responsible Official, timely, complete, and accurate data at such times and in such form as the Responsible Official